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National Economic Research Associates, Inc.
Consulting Economists

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*Revised Final
Minutes*

**MINUTES OF IMPLEMENTATION SUBCOMMITTEE/WORKING PARTY 1
POLICY AND REGULATION**

Revised and Accepted on June 25, 1992

RECEIVED

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Meeting of Tuesday, May 26, 1992
National Economic Research Associates, Inc.
Washington, D.C.

Federal Communications Commission
Office of the Secretary

87-268

Summary: Definition of "manufacturing knowledge" will be deferred to the Working Party 2. A draft outline of Working Party 1 issues and options was reviewed and discussed. Options for simulcasting timetable, uses of spectrum, and broadcaster flexibility were discussed. Molly Pauker will expand the outline into a draft options paper, which will include considerations for and against each option. Working Party 1 members should make a strong effort to provide their inputs to her by June 2d.

Chairman Charles Jackson called the meeting to order at 2:00 p.m. Those who attended the meeting were:

| | |
|------------------|---------------------------------|
| Jeff Krauss | Consultant, General Instruments |
| Quincy Rodgers | General Instruments |
| Mark W. Johnson | CBS |
| Julian Shepard | MSTV |
| Gina Harrison | FCC |
| Brenda Fox | DL&A |
| Loretta Polk | NCTA |
| Kirsten Pehrsson | NERA |
| Sam Antar | Capital Cities/ABC |
| Jane E. Genster | NBC |
| Bill Radwill | AT&T |
| Molly Pauker | Fox |

The Minutes from the prior meeting were accepted with minor spelling changes.

Continued Discussion of Definition of "Manufacturing Knowledge." Several members of the group had discussed the importance of the definition of "manufacturing knowledge" prior to the meeting. There was concern among some group members over the definition of "manufacturing knowledge" conveyed in the Working Party's recommendations and Minutes, although no definition had been used in the Subcommittee's fifth interim report. It was decided that the February 12, 1992 recommendations from the Working Party would be clarified to exclude any reference to the issue of "manufacturing knowledge." It was also decided that the matter was more appropriate for

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consideration in Working Party 2 (Transition Scenarios), and a note to the Chairman of that Working Party would so indicate. A copy of the edited Working Party 1 document and the note to the Working Party 2 Chairman would be forwarded to the Chairman of the Subcommittee.

Continued Discussion of Simulcasting Issues. The group discussed an outline of the FCC decision and Working Party 1 issues and options regarding simulcasting issues that had been prepared by Sam Antar.

Discussion on other issues preceded specific discussion on simulcasting. First was the specific role of the Working Party 1 in resolving the simulcasting issue. Chairman Jackson noted that the simulcasting issue was of particular concern to the Committee and that a goal of the Working Party 1 is to build a consensus among the industry through sharing of information. There was also discussion about the placement of Working Party 1 Minutes and other documents in the public record prior to full Committee review. Ex parte requirements, invoked by Gina Harrison's exposure to information relevant to a pending rulemaking, were discussed. It was agreed that it is important to clarify that Working Party 1 documents placed in the record reflect Working Party 1 discussions only, and do not necessarily reflect the authority and support of the Subcommittee or the full Committee. It was also clarified that Gina Harrison generally places in the record Minutes of those meetings which she attends.

The group discussed the issues and option as presented in the outline. It was agreed that the definition of simulcasting and the timetable for its implementation were interdependent. It was asked why the Working Party 1 had no input into the Commission's 100 percent simulcasting decision. The reason was that the group had been unable to reach a consensus prior to the Commission's issuance of the Order. It was suggested that the Working Party 1 could now comment against that requirement, if it so decided.

There was discussion of the three options in the outline for the timetable for 100 percent simulcasting. It was suggested that a fourth option be added or the second option be modified. A fourth option would provide that the 100 percent requirement be reconsidered at a later date. A modification of the second option would defer decision of the 100 percent requirement in addition to deferring a decision on an implementation timetable. There was discussion that the dynamic and creative nature of the broadcasting industry may make it inappropriate to require 100 percent simulcasting. However, the 100 percent requirement would help to preclude appeals based on Ashbacker concerns. The use of downconverters to prevent disenfranchisement was discussed. It was suggested that the issue of set-top downconverters might be more appropriate for Working Party 2. There was brief discussion of the possible costs and methods of downconversion. Chairman Jackson noted that the basic tradeoff to be considered in any timetable is between program diversity and hardware (conversion) costs.

It was suggested that there will be little production of programming in two (NTSC and ATV) versions in the near future. Studios will eventually convert to ATV, but for a time will only upconvert NTSC programming to ATV. This will result because there will be little incentive to produce ATV programming identical to that provided on NTSC. These factors may indicate that 100 percent simulcasting is not appropriate or conducive to implementation of original ATV programming.

Concern was expressed that adding the option to reconsider the Commission's 100 percent simulcasting requirement would undermine efforts to advance the ATV proceeding. In response to this concern, it was clarified that the Working Party 1 will merely list options for consideration. It will be made clear that options in the list do not indicate a consensus by the Working Party 1

on that option, and considerations both for and against each will be provided. Chairman Jackson clarified that his goal is to outline the issues with their respective pros and cons before the next Implementation Subcommittee meeting.

Next was discussion of the part of the outline regarding broadcaster flexibility. It was suggested that the option of "time shifting" be expanded to include other alternatives, such as performance rights.

The list of options also may include uses of excess spectrum for ancillary services (such as data, etc). There was discussion about the impact of using excess spectrum on the ability for cable to encrypt the signal. It was suggested that this might be an issue for another (technology) Working Party. Options regarding these uses may be subject to advice from the technology Working Party regarding inter-operability. Also included may be policy options for granting waivers of the simulcasting requirement.

Molly Pauker will expand on the outline discussed at the meeting. She will expect contributions of positive and negative aspects to each of the options from Working Party 1 members by June 2d.

The question of ATV call signs was raised. Television call signs are important to both broadcasters and consumers. How will call signs be assigned to ATV stations associated with existing broadcasting stations?

There was discussion of a method of ATV implementation presented in a recent Broadcasting article. That method allows for ATV construction criteria to be met by initially constructing a low-power transmitter, while later expanding the broadcast range using booster transmitters. It was suggested that the construction permits to be issued by the Commission will be quite specific, so this approach may not be feasible. It was decided that discussion of this issue would be resumed if the approach appears to be a realistic possibility.

No date was set for the next meeting.

The meeting was adjourned at 4:15 p.m.